

Re: CAPEX Fees

From: THOMAS KAPUSTA (tkapusta@aol.com)
To: mac@dakotabankruptcy.com; mac@mbvesq.com
Cc: sarah.j.wencil@usdoj.gov
Date: Thursday, April 17, 2025 at 11:06 AM CDT

Mac, it is pretty obvious that a check was never mailed. It wouldn't take weeks to be received through US Postal Service.

Regards,

Tom Kapusta
Subchapter V Trustee

On Friday, April 4, 2025, 5:08 PM, Mac VerStandig <mac@dakotabankruptcy.com> wrote:

Tom,

My understanding is that a check is in the mail. I have called Mr. Carlson (whose signature is still required on checks) to verify and will circle back once verified.

In the interim, I would note that the plan provides for your claim to be paid out of a recovery from litigation proceeds. The reorganized debtor has scant resources and, while it is willing to apply those scant resources to paying your claim (as it apparently has done by mailing a check), such is not actually required. In fact, I am forbearing from asking CAPEX to pay my firm's fees (over and above the retainer I was holding) for the time reason, knowing that the plan provides for payment from the litigation recovery and not through the meager cash on hand.

So while you are certainly free to object to Mr. Schmitz' fee application, I would hope that any objection would be tethered to concerns about the reasonableness or necessity of the fees sought (which strike me as a bargain) and not to any effort to further pressure the premature payment of your claim (which, again, I understand to be satisfied via a check that is in the mail). And, equally, while you are certainly free to construe your foregoing e-mail as a default notice, I would be remiss to not observe that I do not believe any default to be afoot.

Thanks,

Maurice "Mac" VerStandig, Esq.
The Dakota Bankruptcy Firm
1630 1st Avenue N
Suite B PMB 24
Fargo, North Dakota 58102-4246
Phone: (855) 987-DEBT
Local: (701) 394-3215
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From: THOMAS KAPUSTA <tkapusta@aol.com>**Sent:** Friday, April 4, 2025 3:33 PM**To:** Mac VerStandig <mac@dakotabankruptcy.com>; Mac VerStandig <mac@mbvesq.com>**Cc:** Wencil, Sarah (USTP) <sarah.j.wencil@usdoj.gov>**Subject:** Re: CAPEX Fees

Dear Mac,

As of this date, I have not received payment. This email is 30 day demand for payment under the default notice provision of the approved plan. In addition, if payment is not received by this Monday, I will be filing an objection to the fee application for the chief restructuring officer for failure to provide the services by this position as approved by the court, e.g. failure to make payments approved by the court.

If you have any questions, please let me know. Thank you.

Regards,

Thomas Kapusta
Subchapter V Trustee

On Thursday, April 3, 2025 at 06:49:05 AM CDT, Mac VerStandig <mac@dakotabankruptcy.com> wrote:

Tom,

FYI, my understanding is that a check to you is in the mail.

Thanks,

Maurice "Mac" VerStandig, Esq.

The Dakota Bankruptcy Firm

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Suite B PMB 24

Fargo, North Dakota 58102-4246

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